

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - W/S York Road, 1,090' N of Stablers Church Road (19520 York Road) 7th Election District 3rd Councilmanic District

* BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

* Case No. 89-32-SPHA

American Legion Post #256
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an amendment to previous Case Nos. 83-218-SPH and 74-227-X to permit existing Building "A" to remain with its present setbacks and be used as caretaker's quarters, and additionally, to permit a general change in the site plan approved; and further, Petitioner requests a variance to permit a setback of 33 feet to the center of the street in lieu of the required 50 feet; all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Joseph W. Hildebrand, a member, appeared, testified and was represented by Henry W. Stewart, Esquire. There were no Protestants.

Testimony indicated that the subject property, zoned R.C. 5, has been used as a community building for the American Legion Post #256 for an extensive period of time. In 1974, a special exception was granted for the community building in Case No. 74-227-X. Thereafter, in Case No. 83-218-SPH, a special hearing was granted approving the removal of the existing community building and the reconstruction of a new building. The new building was completed in early 1987. As a result of numerous break-ins that have occurred on the property, the Petitioner proposes converting the old community building, which was never razed, into a caretaker's

house. Testimony indicated that the building was originally used as a dwelling. In order to convert the building into a dwelling, the requested variances are necessary.

Mr. Hildebrand testified that he is a member of the Post and that he and his wife have agreed to sell their residence in the city and move into the proposed caretaker's dwelling. He indicated that since the completion of the community building, there have been at least five break-ins on the property. On one occasion, there was a loss of valuables estimated at \$8,000. Mr. Hildebrand testified that he and other members of the Post believe that having someone residing on the property will result in a decrease in such break-ins. Testimony indicated that the Petitioner would comply with any and all County requirements regarding occupancy of the subject building. The Petitioner contends that if the amendment to the site plan as depicted in Petitioner's Exhibit 1 and the accompanying requested variances are not granted, undue hardship would be suffered by the Post. The Petitioner argued that the granting of the relief requested in the special hearing to allow existing Building "A" to remain and the requested variances will not cause any detriment to the health, safety and general welfare of the community.

Testimony indicated that Petitioner's Exhibit 1 does not reflect the additional parking, which was and is required, if and when the building is expanded as set forth in the site plan approved in Case No. 83-218-SPH. If the building is expanded, the Petitioner indicated that the additional required parking will be provided in conformance with the plan approved in Case No. 83-218-SPH.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-32-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a variance from Section 1.40.4-3-B-3 to permit a setback of 33 feet to the center of the street in lieu of the required 50 feet and a side yard setback of 38 feet in lieu of the required 50 feet.

Property is to be posted and advertised as prescribed by Zoning Regulations.

1. or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Paul E. Hayden, Commander (Type or Print Name)

Signature: Paul E. Hayden

Thurlo E. Fuller, Adjutant (Type or Print Name)

Signature: Thurlo E. Fuller

The American Legion Parkton Post No. 256, Inc. 19520 York Road 357-5462 (Type or Print Name)

Address: Parkton, Maryland 21120

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Edward M. Lowe 500 West 29th Street Baltimore, Maryland 21211 235-9400 (Name)

Address: Parkton, Maryland 21120

City and State

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City and State

his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if an amendment to the originally approved site plan and variances were granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested was denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing and variances should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 17th day of August, 1988 that the Petition for Special Hearing to approve an amendment to previous Case Nos. 83-218-SPH and 74-227-X to permit existing Building "A" to remain with its present setbacks and be used as caretaker's quarters, and additionally, to permit

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-32-SPHA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a variance from Section 1.40.4-3-B-3 to permit a setback of 33 feet to the center of the street in lieu of the required 50 feet and a side yard setback of 38 feet in lieu of the required 50 feet.

Property is to be posted and advertised as prescribed by Zoning Regulations.

1. or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s): Paul E. Hayden, Commander (Type or Print Name)

Signature: Paul E. Hayden

Thurlo E. Fuller, Adjutant (Type or Print Name)

Signature: Thurlo E. Fuller

The American Legion Parkton Post No. 256, Inc. 19520 York Rd. 357-5462 (Type or Print Name)

Address: Parkton, Maryland 21120

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

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Address: Parkton, Maryland 21120

City and State

Zoning Variance to permit a setback of 33 feet to the center of the street in lieu of the required 75 feet and a side yard setback of 38 feet in lieu of the required 50 feet; in accordance with Petitioner's Exhibit 1, be and are hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Existing building "A" is limited to its use as a caretaker's dwelling.
- 3) The Petitioner shall comply with all requirements as set forth in the Department of Environmental Protection and Resource Management comments dated June 10, 1988, a copy of which is attached hereto and made a part hereof.

ANN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

August 17, 1988

Henry W. Stewart, Esquire
209 Courtland Avenue
Townson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
W/S York Road, 1090' N of Stablers Church Road
(19520 York Road)
7th Election District - 3rd Councilmanic District
American Legion Post #256 - Petitioner
Case No. 89-32-SPHA

Dear Mr. Stewart:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

cc: Mr. Edward M. Lowe
500 W. 29th Street
Baltimore, Maryland 21211

People's Counsel

File

RE: PETITION FOR SPECIAL HEARING & VARIANCE
W/S York Rd., 1090' N Stablers Church (19520 York Rd.), 7th District
THE AMERICAN LEGION PARKTON POST #256, Petitioner
Case No. 89-32-SPHA

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

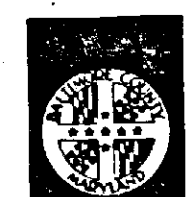
Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 14th day of July, 1988, a copy of the foregoing Entry of Appearance was mailed to Henry W. Stewart, Esquire, 209 Courtland Ave., Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353
J. Robert Haines
Zoning Commissioner

Date: July 26, 1988



Dennis F. Rasmussen
County Executive

Mr. Paul E. Hayden, Commander
American Legion Post #256, Inc.
19520 York Road
Parkton, Maryland 21120

Re: Petitions for Special Hearing and Zoning Variance
CASE NUMBER: 89-32-SPHA
W/S York Road, 1090' N Stablers Church (19520 York Road)
7th Election District - 3rd Councilmanic
Petitioner(s): American Legion Post #256, Inc.
HEARING SCHEDULED: TUESDAY, AUGUST 16, 1988 at 11:00 a.m.

Dear Mr. Hayden:

Please be advised that \$135.05 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring to the Office, County Office Building, Room 304, Towson, MD 21204, (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 52908

DATE: 8/8/88 ACCOUNT: 89-32-SPHA

AMOUNT: \$ 135.05

RECEIVED FROM: American Legion Post #256, Inc.

FOR: Advertising and Posting

BY: J. Robert Haines

VALIDATION OR SIGNATURE OF CARRIER
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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353
J. Robert Haines
Zoning Commissioner

June 30, 1988



Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing and Zoning Variance
CASE NUMBER: 89-32-SPHA
W/S York Road, 1090' N Stablers Church (19520 York Road)
7th Election District - 3rd Councilmanic
Petitioner(s): American Legion Post #256, Inc.
HEARING SCHEDULED: TUESDAY, AUGUST 16, 1988 at 11:00 a.m.

Special Hearings in accordance to the Special Hearing cases 83-210-SPH and 74-227-M to provide: 1) Existing building "A" to remain with its present setbacks and be utilized as a caretaker's quarters, and 2) A general change in the site plan. Variance to permit a setback of 33 feet to the center of the street in lieu of the required 75 feet and a side yard setback of 33 feet in lieu of the required 50 feet.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Henry W. Stewart, Esq.
Paul E. Hayden
Edward M. Lowe
File

LAW OFFICES OF
HENRY W. STEWART, P.A.
209 COURTLAND AVENUE
TOWSON, MARYLAND 21204

AREA CODE 301
321-8888

June 2, 1988

RECEIVED ZONING OFFICE
DATE: 6/7/88

Mr. J. Robert Haines
Zoning Commissioner
Baltimore County Zoning Office
County Office Building, Room 109
Towson, MD 21204

RE: American Legion Post #256
Request for Variance
Item No.: 427

Dear Mr. Haines:

I am taking this opportunity to request your consideration in the granting of an emergency hearing on behalf of the American Legion Post #256 and their request for a variance under Item 427. The purpose of this request was to provide housing for a caretaker and his wife on the grounds of the American Legion Post in the formerly occupied post building, which now remains vacant on the grounds of the Post property.

The caretaker and his wife would be selling their property of many years in Baltimore City for the purpose of moving to the residence on the Post grounds. They cannot do so until a hearing is scheduled by your office and the variance process adhered to. The time period now stated, following the filing of the formal variance petition, plans, and plans on May 25, 1988, is expected to be three months or more. This would conceivably jeopardize the plans of the caretaker to move promptly for the sale of his present home and the needs of the Post to have the caretaker in residence during the summer months, a period of considerable activity within the Post and on the Post grounds.

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief
J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

Re: Property Owner: American Legion Post 256, Inc.

Location: W/S York Road, 1090' N. Stablers Church Road
19520 York Road

Item No.: 427 Zoning Agenda: Meeting of 6/7/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

1. Fire hydrants for the referenced property are required and shall be located at intervals or feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department.
4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
6. Site plans are approved, as drawn.
7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: John F. O'Neill Noted and Approved: John F. O'Neill
Planning Group Fire Prevention Bureau
Special Inspection Division

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

89-32-SPHA

District: 7th
Posted for: Special Hearing Variance
Petitioner: American Legion Post #256, Inc.
Location of property: W/S York Rd. 1090' N. Stablers Church Rd.
Location of Sign: W/S York Rd. in front of Building A
Remarks: Ed. Hayden
Posted by: Ed. Hayden
Number of Signs: 2
Date of Posting: July 27, 1988
Date of return: July 29, 1988

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD., July 21, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on July 21, 1988

THE JEFFERSONIAN,

Publisher

\$41.25

S. Zeleny

\$135.05

89-32-SPHA

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

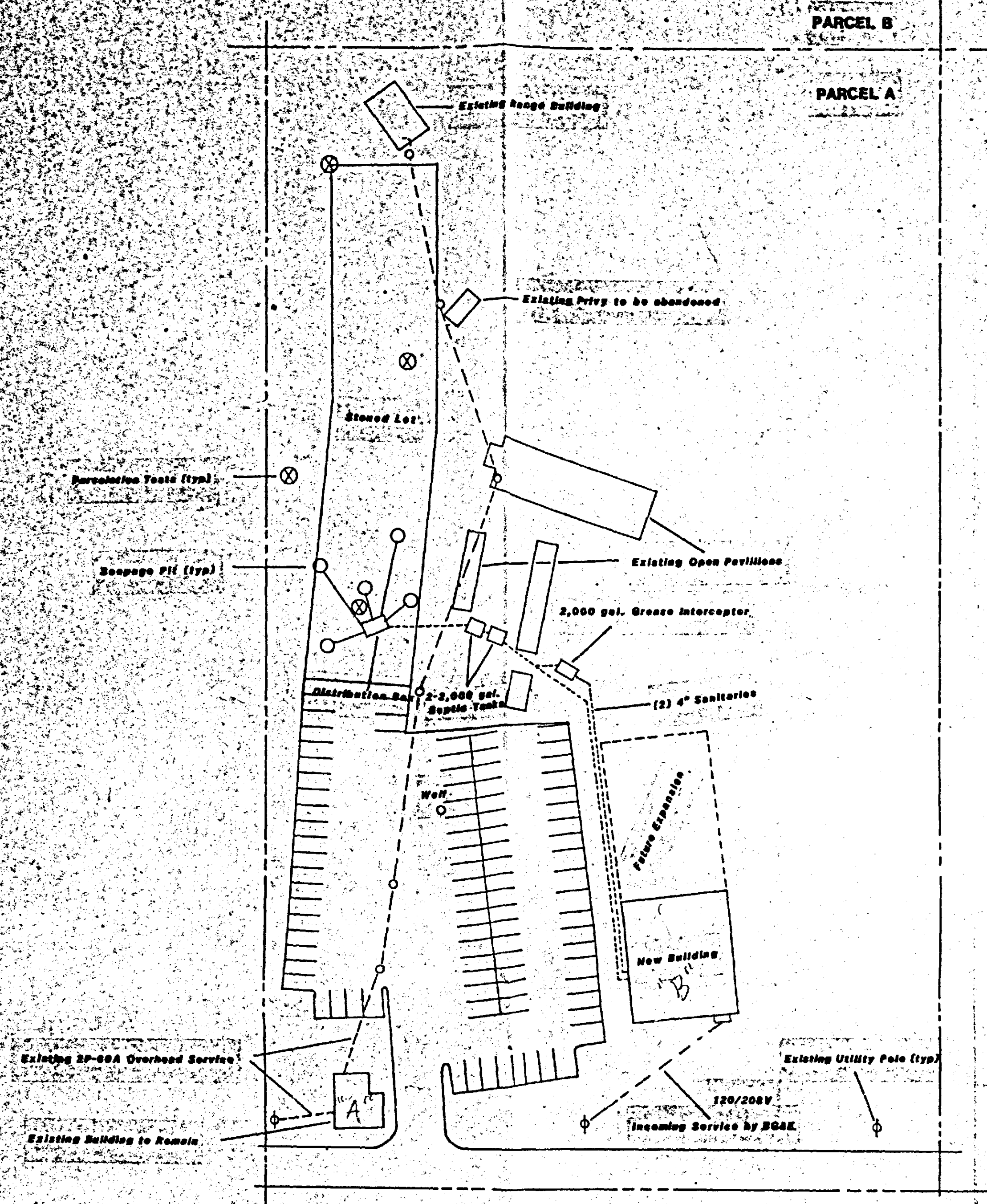
Your petition has been received and accepted for filing this 7th day of June, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: American Legion,
Petitioner's: Post #256
Attorney: Henry W. Stewart

Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

The two septic tanks shall be constructed of concrete, connected in series, and each shall be of 2,000 gallon capacity. The grease trap shall be of 2,000 gallon capacity. The five seepage pits shall be 3 foot diameter by 4 foot deep, minimum 10 feet below the inlet. The kitchen waste line must be separated from the main line and above the top of the septic tanks shall not be deeper than 18" below grade. Risers are to be installed to the surface over the septic tanks and grease interceptor. Covers on the septic tanks are to remain in place. Make distribution box accessible from the parking lot by the use of riser to finished grade. Bring seepage pit cleanouts to finished grade so that the screw cap is one to two inches above surface. The existing building is to remain and be used as offices and storage. The contents of the pit privy shall be removed by a licensed scavenger and the pit backfilled with clean earth. A plumbing permit is required for the installation of an onsite sewage disposal system. Installation detail shall conform with the Baltimore County Plumbing and Gasfitting Code.



SITE PLAN
SCALE 1"=50'

Area A is 5.7 acres.
Zoned RC5 - Special Exception.
The site has been pre-graded and stone placed in the roadway and parking areas. This work was done under a prior grading permit. The only earth to be disturbed is for the excavation and backfill of the footings.

- Requirements and/or Restrictions**
1. Compliance with the Maryland Department of Transportation and Baltimore County Department of Health requirements.
 2. The hours of operation shall not extend beyond Midnight (Sunday thru Thursday), and 2:00 AM (Friday and Saturday).

Parking Data
Area of proposed building: 60x72= 4,320 s.f.
1 space required for each 50 s.f.
4,320/50 = 87 spaces required.
90 spaces proposed which includes 7 handicapped (HC).

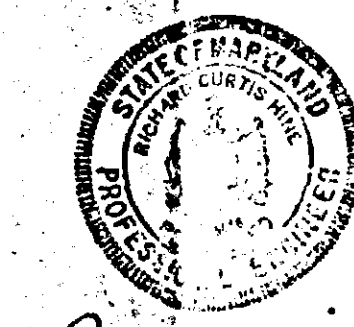
PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY: [Signature]
DATE: 5/20/87
BY: [Signature] ZONING COMMISSIONER
DATE: 5/20/87

AMENDED SITE PLAN
SPECIAL EXCEPTION
CASE 83-218/74-227

AMENDED AS OF 5/20/87
DATE
Edward M. Lowe, Adjutant
Parkton Post 356

Control No. C-1474-86
Permit No. 91363

**PETITIONER'S
EXHIBIT 1**



TOLERANCES (UNLESS OTHERWISE NOTED)		REVISIONS		PARKTON AMERICAN LEGION POST #256	
DECIMAL	FRACTIONAL	NO.	DATE	BY	
1	1	1	8-8-86	EML	18828 YORK ROAD PARKTON, MD. BALTIMORE COUNTY
2	2	2	8-19-86	EML	
3	3	3	5-20-87	EML	
4	4	4			
5	5	5			

THE FOLLOWING ITEMS HAVE BEEN CONSTRUCTED

The two septic tanks shall be constructed of concrete, connected in series, and each shall be of 2,000 gal. capacity.

The grease trap shall be of 2,000 gal. capacity.

The five seepage pits shall be 8 feet in diameter by 12 feet deep, and a minimum of 10 feet below the inlet.

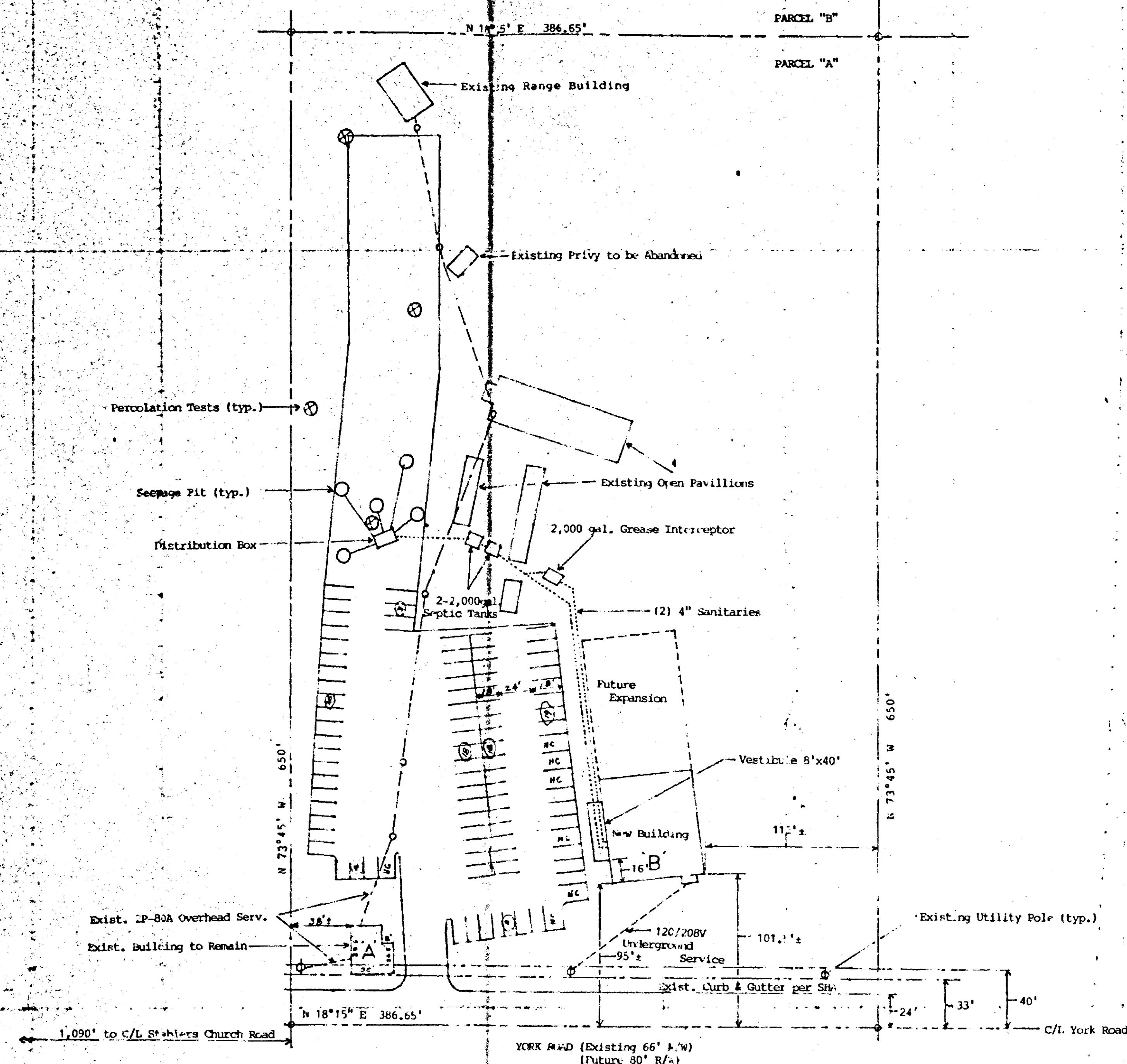
The kitchen waste line must be separated from the main line as shown.

The top of the septic tanks shall not be deeper than 18" below grade. Risers are to be installed to the surface over the septic tanks and grease interceptor. Covers on the septic tanks are to remain in place. Make distribution box accessible from the parking lot by the use of risers to finished grade. Bring seepage pit cleanouts to finished grade so that the screw cap is one to two inches above surface.

The contents of the pit privy shall be removed by a licensed scavenger and the pit backfilled with clean earth.

A plumbing permit is required for the installation of an onsite sewage disposal system. Installation detail shall conform to the Baltimore County Plumbing and Gasfitting Code.

The existing building "A" is to remain and be used as a caretakers quarters.



SITE PLAN

Scale 1"=50'

Parcel "A" is 5.7 acres.

Zoned RC 5 - Special Exception

The new building has been constructed and is occupied. The parking area is paved with bituminous paving and the parking areas are striped.

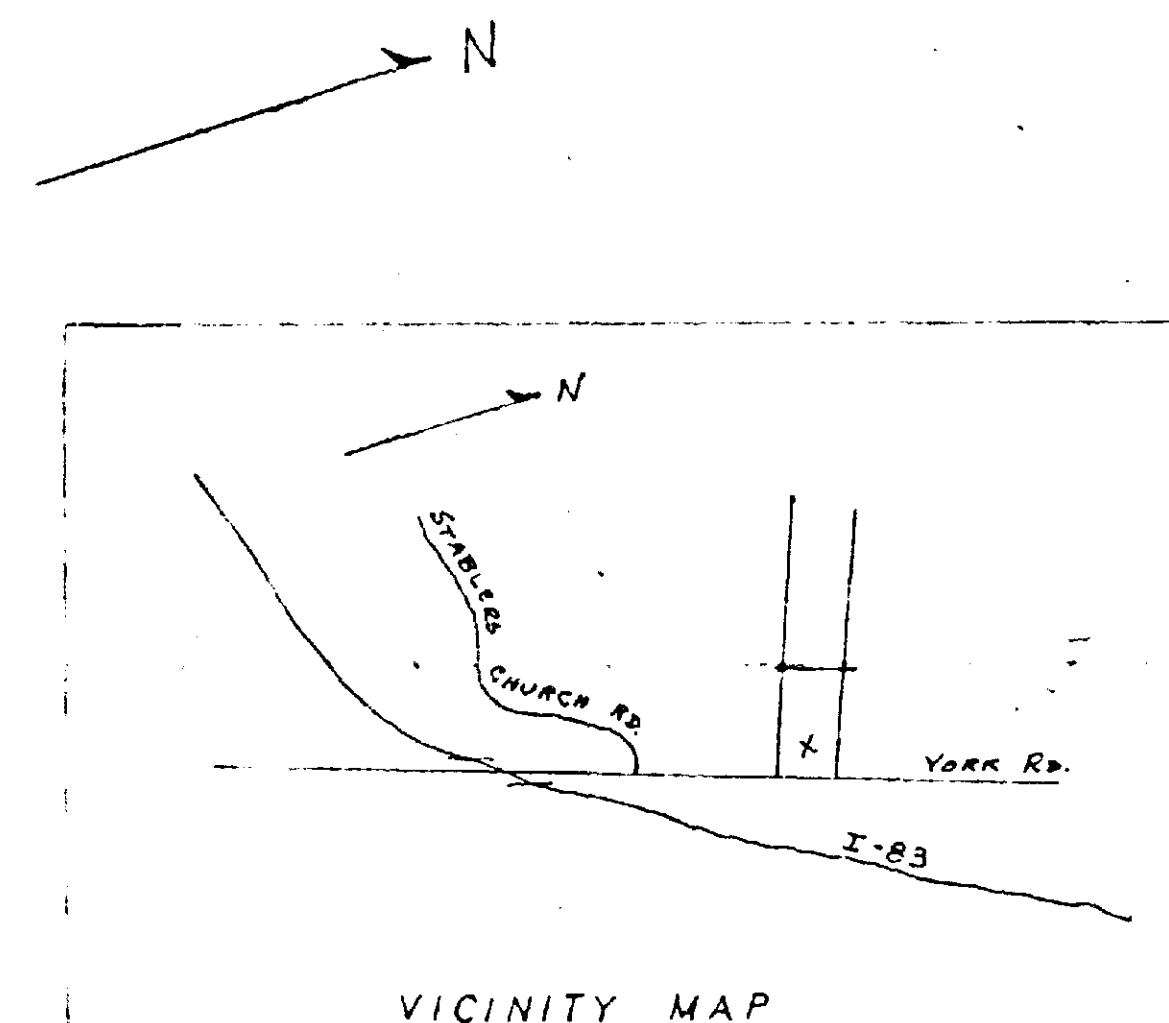
CASE NO. 83-218 SPH, GRANTED AUGUST 12, 1983.

REQUIREMENTS AND/OR RESTRICTIONS

1. Compliance with The Maryland Department of Transportation and Baltimore County Department of Health requirements.
2. The hours of operation shall not extend beyond Midnight (Sunday thru Thursday) and 2:00 AM (Friday and Saturday).

PARKING DATA

Area of newly constructed building: 60x72= 4,320 sf
One parking space for each 50 sf of building area.
4,320/50 = 87 spaces required.
90 spaces constructed which includes 7 handicapped (HC).
Handicapped Space = 12'x18'
Standard Space = 9'x18'
Vestibule is exempt from parking requirements per Section 409-2b, BCZR



SITE PLAN FOR SPECIAL HEARING TO AMEND CASE 83-218 SPH & 74-227 X TO PERMIT BUILDING "A" TO REMAIN AND BE USED FOR CARETAKERS QUARTERS & TO AMEND THE SITE PLAN GENERALLY AS INDICATED HEREIN, AND SETBACK VARIANCES FOR BUILDING "A".



TOLERANCES		REVISIONS		PARKTON AMERICAN LEGION POST NO. 256	
DECIMAL	NO.	DATE	BY	NO.	DATE
1	8-	8-86	EML	1	8-8-86
2	8-19-86	EML		2	8-19-86
FRACTIONAL	3	5-20-87	EML	3	5-20-87
4	3-1-88	EML		4	3-1-88
ANGULAR	5	9-28	EST	5	9-28